

\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3324/2020 and CM APPL. 11679/2020**

SHASHANK S. MANGAL & ANR Petitioners

Through: Petitioners in person.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Ramesh Singh, Standing Counsel
and Mr. Ankur Chhibber, Advocate
for R-1 and 2.

Mr. Kirtiman Singh, CGSC for R-3.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 29.06.2020

1. This hearing has been held through video conferencing.
2. As recorded on the last date, the present petition seeks implementation of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (*hereinafter, "1979 Act"*). On the last date, this Court had directed the GNCTD as also the Union of India to place on record a status report containing the following data:-

"10. This Court is of the prima facie opinion that in order to have a proper, streamlined regulation of migrant workmen and their conditions of service, the first and the foremost significant measure would be the collection of the actual data and the integration of the same between the Central Government and the State Governments. For the said purpose, the said

Governments would have to consider as to whether there should be a centralized portal for registration of migrant workmen by the contractors who engage them or the employers who employ them. Mechanisms and tools also ought to be made available so that employers and contractors do not find the same burdensome and that they can submit the data without glitches.

11. However, before passing any further orders in this matter, both the Governments are directed to file their respective affidavits disclosing the data relating to migrant workers, set out below, as available with them as of 1st June, 2020. In addition to the data, the respective Governments would also place on record the procedure currently being followed for contractors or employers to register migrant workers as also what are the procedures being followed for ensuring compliance. Accordingly, a status report be filed by both the Ministry of Labour, UOI and the GNCTD in respect of the following:

- i) Number of establishments which are currently registered under Section 4 of the Act;*
- ii) Number of licences issued to contractors in terms of Section 8 of the Act;*
- iii) The number of inter-state migrant workers who have, in fact, been declared under Section 12 to the State Government or even to the Central Government.*
- iv) Number of actions taken against 'contractors' and/or 'employers' for contravention of provisions of the Act since 2010.*
- v) Total number of 'officers' appointed under Sections 3, 7, 11 and 20 of the Act."*

3. Pursuant to the last order, the GNCTD, through the Additional Secretary (Labour), has placed on record an affidavit stating that in so far as the 1979 Act is concerned, there are no registered contractors under the said

Act. However, in so far as the registration of Migrant Workers under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (*hereinafter*, “BOCW Act”) is concerned, the GNCTD has disclosed that there are various schemes which are available for construction workers. The registration of these workers takes place through the e-district portal. It has also been mentioned that during the lockdown period, 39,600 registered construction workers have been disbursed financial assistance.

4. The GNCTD has also informed the Court that the *Shramik* helpline was made operational during the lockdown period to assist the migrants.

5. In addition, it is stated that the Ministry of Labour and Employment, Government of India held a video conference on 16th June, 2020 with the intention to prepare a uniform registration format with software for portability across the country to enable the registration of migrant workers.

6. The Union of India, has filed a note signed by the Assistant Labour Commissioner, New Delhi, who has primarily sought time to comply with the last order. In paragraph 4, it is stated that no contractor or employer working in NCT Delhi has made any application for issue of registration or grant of a licence, under the 1979 Act. However, it is also mentioned that the *Shram Suvidha* portal of the Ministry enables online issuance of licences and registrations under the 1979 Act.

7. A perusal of the above two reports/notes shows that there is a dire need for creating a mechanism for registration of migrant workers. Though some progress appears to have been made under the BOCW Act, registration/grant of licences under the 1979 Act is almost negligible, if not nil. This position needs to be altered and solved in order to ensure that

migrant labour is adequately protected in terms of the Acts and benefits meant for them are also passed on to them.

8. Let a further detailed affidavit be filed by the Union of India as to the kind of portal, which is sought to be created, for the registration of migrant labour across the country. Such a portal ought to have on board all the state governments so that the ingress and egress of migrant labour is duly recorded and reported. On the next date, respective officers from the GNCTD and the Union of India who are familiar with the above exercise shall join the hearing through video-conferencing.

9. Ld. counsel for the Petitioner submits that in an unstarred question in Parliament, a response was given by the Labour Minister which the Petitioner wishes to place on record. Let a copy of the same be placed on record.

10. List on 22nd July, 2020 for further hearing.

PRATHIBA M. SINGH, J.

JUNE 29, 2020
MR/A/T